

Remarks

Applicants note the Provisional Obviousness-type Double Patenting Rejection over claims 1-44 of the later-filed application 11/557,612. The Undersigned is prepared to submit a Terminal Disclaimer under 37 C.F.R. 1.321 to obviate this rejection should this ultimately be required. However, in the event that the scope of the claims of either of the applications may change during the course of prosecution, a Terminal Disclaimer may ultimately not be required. Accordingly, Applicant respectfully reserves the right to file a Terminal Disclaimer at a later time during prosecution (e.g., after the other grounds of rejection are overcome) or to argue against the necessity of doing so.

The Examiner has also raised claim rejections under 35 U.S.C. §102(b) to claims 1-2, 4-8, 10 and 18 in view of Naka (US 5,498,357). Accordingly, the Examiner is of the position that claims 3, 9, 11 to 17 and 18 to 19 are novel over Naka.

The Applicant has amended by specifying the subject-matter of claims 2 and 3. Since claim 3 is considered novel by the Examiner, all independent claims 1, 11 and 18 of the present are novel over Naka. The Examiner is therefore respectfully requested to withdraw the 35 U.S.C. §102(b) rejection and find all claims novel.

Applicant has added a new claim 21, wherein the surfactant comprises a derivative of polyisobutylene substituted with succinic anhydride. This is supported by the specification, page 7, lines 25- page 8, line 21, and the examples of the invention. The specification of a particular surfactant that is different than the sorbitan trioleate of the Naka references is desirable as it further distinguishes the new invention.

The Applicant submits that the amended claims presented herein also meet the requirements of 35 U.S.C. §103(a), i.e., the present invention is unobvious. The reason is because no obviousness rejections have been raised to claim 3 over Naka.

In view of the reasoned statements above, it is believed that the application is in condition for allowance.

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Any additional required fees, or any insufficiency or overpayment of fees, should be charged or credited to deposit account 12-2275 (The Lubrizol Corporation).

Respectfully submitted,

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